

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EDWARD ROBINSON, JR.,

Petitioner,

Crim. Case No. 04-80423

Civil Case No. 08-11789

v.

UNITED STATES OF AMERICA,

Hon. Gerald E. Rosen

Magistrate Judge R. Steven Whalen

Respondent.

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**ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on April 27, 2010

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

On February 27, 2009, Magistrate Judge R. Steven Whalen issued a Report and Recommendation ("R & R") recommending that the Court deny Petitioner Edward Robinson, Jr.'s motion under 28 U.S.C. § 2255 to vacate his sentence. Petitioner filed objections to the R & R on March 16, 2009, and then filed an April 27, 2009 motion to supplement these objections.

The Court fully concurs in the Magistrate Judge's analysis and recommended disposition of Petitioner's § 2255 motion. In his objections to the R & R, Petitioner continues to rehash arguments that were expressly rejected by this Court at Petitioner's trial and by the Sixth Circuit on direct appeal. Most prominently, Petitioner continues to

challenge the lawfulness of the search that led to his April 22, 2004 arrest, focusing in particular on (i) purportedly false statements made in the affidavit supporting the search warrant, and (ii) the failure to produce the confidential informant referenced in this affidavit for an *in camera* hearing. As the Magistrate Judge has explained, “[t]hese issues were all fully addressed in the Sixth Circuit’s decision on direct review,” and may not be relitigated in a § 2255 motion. (*See* R & R at 5-6.) To the extent that Petitioner has raised issues that were not already decided against him on direct appeal — *e.g.*, his claims of ineffective assistance of trial and appellate counsel — the Magistrate Judge has ably addressed these claims in the R & R, and Petitioner’s objections amount to nothing more than a bare disagreement with the Magistrate Judge’s treatment of these claims, without any effort to identify any error in the Magistrate Judge’s analysis that might warrant a different outcome. Accordingly, Petitioner’s initial and supplemental objections to the R & R are overruled.

For these reasons,

NOW, THEREFORE, IT IS HEREBY ORDERED that Petitioner’s April 27, 2009 motion to amend or supplement his objections to the Magistrate Judge’s Report and Recommendation (docket #163) is GRANTED. IT IS FURTHER ORDERED that the Magistrate Judge’s February 27, 2009 Report and Recommendation is ADOPTED as the opinion of this Court, and that Petitioner’s initial and supplemental objections to this Report and Recommendation are OVERRULED.

Next, IT IS FURTHER ORDERED that, for the reasons stated in the Magistrate

Judge's R & R, Petitioner's April 29, 2008 motion to vacate, set aside, or correct his sentence (docket #145) is DENIED. Finally, in light of the clear and undisputed legal principles that dictate this disposition of Petitioner's motion, and in light of Petitioner's continued pursuit of issues and claims that have been decided against him at trial and on direct appeal, IT IS FURTHER ORDERED that a certificate of appealability is DENIED as to any appeal that Petitioner might pursue from this ruling.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: April 27, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 27, 2010, by electronic mail and upon Edward Robinson, Jr., #32744-039, Sandstone FCI, B Unit, P.O. Box 1000, Sandstone, MN 55072 by ordinary mail.

s/Ruth A. Gunther
Case Manager